

AMENDED IN SENATE JULY 16, 2007

AMENDED IN SENATE JULY 5, 2007

AMENDED IN ASSEMBLY MAY 17, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 843**

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### Introduced by Assembly Member Eng

February 22, 2007

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An act to amend Sections 480, 480.3, 480.4, and 482 of the Revenue and Taxation Code, relating to taxation.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 843, as amended, Eng. Property taxation.

Existing property tax law requires a transferee of real property or a manufactured home that is locally assessed to file a change in ownership statement with the county in which the property or manufactured home is located. *Existing law requires the State Board of Equalization, after consultation with the California Assessors' Association, to prescribe the contents of this statement.* Existing law requires this statement to be filed within specified time periods or within 45 days of a written request therefor from the county assessor. If a county assessor makes a written request to a transferee to file a change in ownership statement and the transferee fails to do so within 45 days of that request, existing law imposes a penalty on the transferee equal to the greater of either \$100 or 10% of the property taxes due on the property, but not to exceed \$2,500 if the failure was not willful.

This bill would instead provide that the penalty for failing to file a change in ownership statement applies if the transferee fails to file the statement within 60 days of a written request by the assessor. *This bill*

would also require the State Board of Equalization to consult with interested parties before prescribing the contents of a change in ownership statement. This bill would also specify to which addresses the assessor may mail this request or a notice of a penalty. This bill would also provide that the \$2,500 cap on the penalty for a nonwillful failure to file a change in ownership statement only applies on property that is eligible for the homeowners' property tax exemption, and would establish a \$10,000 cap on the penalty for a nonwillful failure to file a change in ownership statement if the property is not eligible for the homeowners' exemption. This bill would also make conforming changes to a related provision. *This bill would specify the date upon which a change in ownership statement is deemed filed with the assessor.*

Existing property tax law requires each county assessor and county recorder to make available a form known as a preliminary change in ownership report. Existing law specifies the contents of this form, but authorizes the State Board of Equalization to revise the form.

This bill would delete the specified contents of this form and would instead require the State Board of Equalization, after consultation with the California Assessors' Association and interested parties, to prescribe the contents of the form. This bill would require that this form contain information that includes, but is not limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction.

By changing the manner in which county officials process property tax penalties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 480 of the Revenue and Taxation Code
- 2 is amended to read:

480. (a) Whenever there occurs any change in ownership of real property or of a manufactured home that is subject to local property taxation and is assessed by the county assessor, the transferee shall file a signed change in ownership statement in the county where the real property or manufactured home is located, as provided for in subdivision (c). In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.

(b) The personal representative shall file a change in ownership statement with the county recorder or assessor in each county in which the decedent owned real property at the time of death that is subject to probate proceedings. The statement shall be filed prior to or at the time the inventory and appraisal is filed with the court clerk. In all other cases in which an interest in real property is transferred by reason of death, including a transfer through the medium of a trust, the change in ownership statement or statements shall be filed by the trustee (if the property was held in trust) or the transferee with the county recorder or assessor in each county in which the decedent owned an interest in real property within 150 days after the date of death.

(c) Except as provided in subdivision (d), the change in ownership statement as required pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall give that information relative to the real property or manufactured home acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association *and interested parties*. The information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question that is not germane to the assessment function. The statement shall contain a notice informing the transferee of the property tax relief available under Section 69.5. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

“Important Notice”

1 “The law requires any transferee acquiring an interest in real  
2 property or manufactured home subject to local property taxation,  
3 and that is assessed by the county assessor, to file a change in  
4 ownership statement with the county recorder or assessor. The  
5 change in ownership statement must be filed at the time of  
6 recording or, if the transfer is not recorded, within 45 days of the  
7 date of the change in ownership, except that where the change in  
8 ownership has occurred by reason of death the statement shall be  
9 filed within 150 days after the date of death or, if the estate is  
10 probated, shall be filed at the time the inventory and appraisal is  
11 filed. The failure to file a change in ownership statement within  
12 60 days from the date of a written request by the assessor results  
13 in a penalty of either: (1) one hundred dollars (\$100), or (2) 10  
14 percent of the taxes applicable to the new base year value reflecting  
15 the change in ownership of the real property or manufactured  
16 home, whichever is greater, but, if the failure was not willful, not  
17 to exceed two thousand five hundred dollars (\$2,500) if the  
18 property is eligible for the homeowners’ exemption or ten thousand  
19 dollars (\$10,000) if the property is not eligible for the homeowners’  
20 exemption. This penalty will be added to the assessment roll and  
21 shall be collected like any other delinquent property taxes, and be  
22 subject to the same penalties for nonpayment.”

23  
24 (d) The change in ownership statement may be attached to or  
25 accompany the deed or other document evidencing a change in  
26 ownership filed for recording, in which case the notice, declaration  
27 under penalty of perjury, and any information contained in the  
28 deed or other transfer document otherwise required by subdivision  
29 (c) may be omitted.

30 (e) If the document evidencing a change in ownership is  
31 recorded in the county recorder’s office, then the statement shall  
32 be filed with the recorder at the time of recordation. However, the  
33 recordation of the deed or other document evidencing a change in  
34 ownership shall not be denied or delayed because of the failure to  
35 file a change of ownership statement, or filing of an incomplete  
36 statement, in accordance with this subdivision. If the document  
37 evidencing a change in ownership is not recorded or is recorded  
38 without the concurrent filing of a change in ownership statement,  
39 then the statement shall be filed with the assessor no later than 45  
40 days from the date the change in ownership occurs, except that

1 where the change in ownership has occurred by reason of death  
2 the statement shall be filed within 150 days after the date of death  
3 or, if the estate is probated, shall be filed at the time the inventory  
4 and appraisal is filed.

5 (f) Whenever a change in ownership statement is filed with the  
6 county recorder's office, the recorder shall transmit, as soon as  
7 possible, the original statement or a true copy thereof to the  
8 assessor along with a copy of every recorded document as required  
9 by Section 255.7.

10 (g) (1) The change in ownership statement may be filed with  
11 the assessor through the United States mail, properly addressed  
12 with the postage prepaid.

13 (2) *A change in ownership statement is deemed filed with the*  
14 *assessor on either the date of postmark affixed by the United States*  
15 *Postal Service on the envelope containing the application or the*  
16 *date certified by a bona fide private courier service on the envelope*  
17 *containing the application.*

18 (h) In the case of a corporation, the change in ownership  
19 statement shall be signed either by an officer of the corporation or  
20 an employee or agent who has been designated in writing by the  
21 board of directors to sign those statements on behalf of the  
22 corporation. In the case of a partnership, limited liability company,  
23 or other legal entity, the statement shall be signed by an officer,  
24 partner, manager, or an employee or agent who has been designated  
25 in writing by the partnership, limited liability company, or legal  
26 entity.

27 (i) No person or entity acting for or on behalf of the parties to  
28 a transfer of real property shall incur liability for the consequences  
29 of assistance rendered to the transferee in preparation of any change  
30 in ownership statement, and no action may be brought or  
31 maintained against any person or entity as a result of that  
32 assistance.

33 Nothing in this section shall create a duty, either directly or by  
34 implication, that the assistance be rendered by any person or entity  
35 acting for or on behalf of parties to a transfer of real property.

36 (j) If a person or legal entity required to file a statement  
37 described in this section fails to do so within the required time,  
38 and the assessor therefore makes a written request for a statement  
39 to be filed, the assessor shall mail the request to the transferee at  
40 the address contained in the recorded instrument or a document

1 evidencing a transfer of an interest in real property or manufactured  
2 home or the address specified for mailing tax information on the  
3 filed preliminary change in ownership report. If the transferee has  
4 subsequently notified the assessor of a different address for mailing  
5 tax information, the assessor shall mail the request to this address.  
6 If there is no address specified for mailing tax information on either  
7 the recorded instrument or document evidencing a transfer of an  
8 interest in real property or manufactured home or the filed  
9 preliminary change in ownership report, or the transferee has not  
10 provided a subsequent address for mailing tax information, then  
11 the assessor shall mail the request to the transferee at the  
12 transferee's current address.

13 SEC. 2. Section 480.3 of the Revenue and Taxation Code is  
14 amended to read:

15 480.3. (a) Each county assessor and recorder shall make  
16 available, without charge and upon request, a form entitled  
17 "Preliminary Change of Ownership Report," which transferees of  
18 real property shall complete and may file with the recorder  
19 concurrent with the recordation of any document effecting a change  
20 in ownership. The form shall be signed by the transferee or an  
21 officer of the transferee certifying that the information provided  
22 on the form is, to the best of his or her knowledge and belief, true,  
23 correct, and complete. The form shall not be signed by an agent  
24 acting for a transferee.

25 (b) If a document evidencing a change in ownership is presented  
26 to the recorder for recordation without the concurrent filing of a  
27 preliminary change in ownership report, the recorder may charge  
28 an additional recording fee of twenty dollars (\$20).

29 (c) Noncompliance with this section by the transferee shall not  
30 delay or preclude the recordation of documents if the additional  
31 fee specified in subdivision (b) is tendered.

32 (d) The authority to obtain information pursuant to this section  
33 is in addition to, and not in lieu of, any existing authority the  
34 assessor has under this article.

35 (e) In cases where the county tax collector files purchaser's  
36 deeds with respect to a sale for defaulted taxes, the information  
37 given to the assessor pursuant to Sections 3716 and 3811 shall be  
38 deemed to constitute compliance with this section.

39 (f) The filing of a preliminary change of ownership report or  
40 the payment of an additional recording fee shall not be required

1 of any intermediate transferee of property, or of any trustee issuing  
2 a trustee's deed to the mortgagee or beneficiary of a mortgage or  
3 deed of trust, or his or her assignees, pursuant to the exercise of a  
4 power of sale contained in a deed of trust or mortgage pursuant to  
5 Chapter 2 (commencing with Section 2920) of Title 14 of Part 4  
6 of Division 3 of the Civil Code. For purposes of this subdivision,  
7 "intermediate transferee" means any transferee who is acting as  
8 both a transferee and the transferor of the same property as part  
9 of a series of simultaneous transfers which affect that property and  
10 who records the transfer documents and any other recorded  
11 documents related to the transfer in consecutive order at one time.

12 (g) Except as prescribed in subdivisions (e) and (f), this section  
13 shall apply to changes of ownership occurring on or after July 1,  
14 1985.

15 SEC. 3. Section 480.4 of the Revenue and Taxation Code is  
16 amended to read:

17 480.4. (a) The preliminary change of ownership report referred  
18 to in Section 480.3 shall give information relative to the transfer.  
19 The information shall include, but not be limited to, a description  
20 of the property, the parties to the transaction, the date of  
21 acquisition, the amount, if any, of the consideration paid for the  
22 property, whether paid in money or otherwise, and the terms of  
23 the transaction. The preliminary change in ownership report shall  
24 not include any question that is not germane to the assessment  
25 function.

26 (b) The State Board of Equalization, after consultation with the  
27 California Assessors' Association and interested parties, shall  
28 prescribe the preliminary change of ownership report for the  
29 purpose of maintaining statewide uniformity in the contents of the  
30 report.

31 SEC. 4. Section 482 of the Revenue and Taxation Code is  
32 amended to read:

33 482. (a) If a person or legal entity required to file a statement  
34 described in Section 480 fails to do so within 60 days from the  
35 date of a written request by the assessor, a penalty of either: (1)  
36 one hundred dollars (\$100), or (2) 10 percent of the taxes applicable  
37 to the new base year value reflecting the change in ownership of  
38 the real property or manufactured home, whichever is greater, but,  
39 if the failure was not willful, not to exceed two thousand five  
40 hundred dollars (\$2,500) if the property is eligible for the

1 homeowners' exemption or ten thousand dollars (\$10,000) if the  
2 property is not eligible for the homeowners' exemption, shall,  
3 except as otherwise provided in this section, be added to the  
4 assessment made on the roll. The penalty shall apply for failure to  
5 file a complete change in ownership statement notwithstanding  
6 the fact that the assessor determines that no change in ownership  
7 has occurred as defined in Chapter 2 (commencing with Section  
8 60) of Part 0.5. The penalty may also be applied if after a request  
9 the transferee files an incomplete statement and does not supply  
10 the missing information upon a second request.

11 (b) If a person or legal entity required to file a statement  
12 described in Section 480.1 or 480.2 fails to do so within 45 days  
13 from the date of a written request by the State Board of  
14 Equalization, a penalty of 10 percent of the taxes applicable to the  
15 new base year value reflecting the change in control or change in  
16 ownership of the real property owned by the corporation,  
17 partnership, or legal entity, or 10 percent of the current year's taxes  
18 on that property if no change in control or change in ownership  
19 occurred, shall be added to the assessment made on the roll. The  
20 penalty shall apply for failure to file a complete statement  
21 notwithstanding the fact that the board determines that no change  
22 in control or change in ownership has occurred as defined in  
23 subdivision (c) or (d) of Section 64. The penalty may also be  
24 applied if after a request the person or legal entity files an  
25 incomplete statement and does not supply the missing information  
26 upon a second request. That penalty shall be in lieu of the penalty  
27 provisions of subdivision (a). However, the penalty added by this  
28 subdivision shall be automatically extinguished if the person or  
29 legal entity files a complete statement described in Section 480.1  
30 or 480.2 no later than 60 days after the date on which the person  
31 or legal entity is notified of the penalty.

32 (c) The penalty for failure to file a timely statement pursuant to  
33 Sections 480, 480.1, and 480.2 for any one transfer may be imposed  
34 only one time, even though the assessor may initiate a request as  
35 often as he or she deems necessary.

36 (d) The penalty shall be added to the roll in the same manner  
37 as a special assessment and treated, collected, and subject to the  
38 same penalties for the delinquency as all other taxes on the roll in  
39 which it is entered.



1 (1) When the transfer to be reported under this section is of a  
2 portion of a property or parcel appearing on the roll during the  
3 fiscal year in which the 45-day period expires, the current year's  
4 taxes shall be prorated so the penalty will be computed on the  
5 proportion of property which has transferred.

6 (2) Any penalty added to the roll pursuant to this section  
7 between January 1 and June 30 may be entered either on the  
8 unsecured roll or the roll being prepared. After January 1, the  
9 penalty may be added to the current roll only with the approval of  
10 the tax collector.

11 (3) If the property is transferred or conveyed to a bona fide  
12 purchaser for value or becomes subject to a lien of a bona fide  
13 encumbrancer for value after the transfer of ownership resulting  
14 in the imposition of the penalty and before the enrollment of the  
15 penalty, the penalty shall be entered on the unsecured roll in the  
16 name of the transferee whose failure to file the change in ownership  
17 statement resulted in the imposition of the penalty.

18 (e) When a penalty imposed pursuant to this section is entered  
19 on the unsecured roll, the tax collector may immediately file a  
20 certificate authorized by Section 2191.3.

21 (f) Notice of any penalty added to either the secured or  
22 unsecured roll pursuant to this section shall be mailed by the  
23 assessor to the transferee at the address contained in the recorded  
24 instrument or document evidencing a transfer of an interest in real  
25 property or a manufactured home or the address specified for  
26 mailing tax information on the filed preliminary change in  
27 ownership report. If the transferee has subsequently notified the  
28 assessor of a different address for mailing tax information, the  
29 assessor shall mail the request to this address. If there is no address  
30 specified for mailing tax information on either the recorded  
31 instrument or document evidencing a transfer of an interest in real  
32 property or manufactured home or the filed preliminary change in  
33 ownership report, or the transferee has not provided a subsequent  
34 address for mailing tax information, then the assessor shall mail  
35 the request to the transferee at the transferee's current address.

36 SEC. 5. If the Commission on State Mandates determines that  
37 this act contains costs mandated by the state, reimbursement to  
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O